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HOUSE BILL 723

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Eric A. Youngberg

AN ACT

RELATING TO SUBDIVISIONS; PROVIDING FOR DELEGATION OF
SUBDIVISION APPROVAL AUTHORITY IN CERTAIN CLASS A COUNTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-6-2 NMSA 1978 (being Laws 1973,
Chapter 348, Section 2, as amended) is amended to read:

"47-6-2. DEFINITIONS.--As used in the New Mexico
Subdivision Act:

A. "board of county commissioners" means the governing board of a county except for a class A county with a population greater than three hundred thousand according to the most recent federal decennial census that delegates the authority to review and act on subdivision requests, in which case, "board of county commissioners" refers to the county administrative officer or the county planning commission to

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1 which the authority to review and act on subdivision requests
2 has been delegated;

3 B. "common promotional plan" means a plan or scheme
4 of operation, undertaken by a single subdivider or a group of
5 subdividers acting in concert, to offer for sale or lease
6 parcels of land where the land is either contiguous or part of
7 the same area of land or is known, designated or advertised as
8 a common unit or by a common name;

9 C. "final plat" means a map, chart, survey, plan or
10 replat certified by a licensed, registered land surveyor
11 containing a description of the subdivided land with ties to
12 permanent monuments prepared in a form suitable for filing of
13 record;

14 ~~[A.]~~ D. "immediate family member" means a husband,
15 wife, father, stepfather, mother, stepmother, brother,
16 stepbrother, sister, stepsister, son, stepson, daughter,
17 stepdaughter, grandson, stepgrandson, granddaughter,
18 stepgranddaughter, nephew and niece, whether related by natural
19 birth or adoption;

20 ~~[B.]~~ E. "lease" means to lease or offer to lease
21 land;

22 ~~[C.]~~ F. "parcel" means land capable of being
23 described by location and boundaries and not dedicated for
24 public or common use;

25 ~~[D.]~~ G. "person" means any individual, estate,

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1 trust, receiver, cooperative association, club, corporation,
2 company, firm, partnership, joint venture, syndicate or other
3 entity;

4 ~~[E.] "final plat" means a map, chart, survey, plan~~
5 ~~or replat certified by a licensed, registered land surveyor~~
6 ~~containing a description of the subdivided land with ties to~~
7 ~~permanent monuments prepared in a form suitable for filing of~~
8 ~~record;~~

9 ~~F.]~~ H. "preliminary plat" means a map of a proposed
10 subdivision showing the character and proposed layout of the
11 subdivision and the existing conditions in and around it and
12 need not be based upon an accurate and detailed survey of the
13 land;

14 ~~[G.]~~ I. "sell" means to sell or offer to sell land;

15 ~~[H.]~~ J. "subdivide" means to divide a surface area
16 of land into a subdivision;

17 ~~[I.]~~ K. "subdivider" means any person who creates
18 or who has created a subdivision individually or as part of a
19 common promotional plan or any person engaged in the sale,
20 lease or other conveyance of subdivided land; however,
21 "subdivider" does not include any duly licensed real estate
22 broker or salesperson acting on another's account;

23 ~~[J.]~~ L. "subdivision" means the division of a
24 surface area of land, including land within a previously
25 approved subdivision, into two or more parcels for the purpose

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1 of sale, lease or other conveyance or for building development,
2 whether immediate or future; but "subdivision" does not
3 include:

4 (1) the sale, lease or other conveyance of any
5 parcel that is thirty-five acres or larger in size within any
6 twelve-month period, provided that the land has been used
7 primarily and continuously for agricultural purposes, in
8 accordance with Section 7-36-20 NMSA 1978, for the preceding
9 three years;

10 (2) the sale or lease of apartments, offices,
11 stores or similar space within a building;

12 (3) the division of land within the boundaries
13 of a municipality;

14 (4) the division of land in which only gas,
15 oil, mineral or water rights are severed from the surface
16 ownership of the land;

17 (5) the division of land created by court
18 order where the order creates no more than one parcel per
19 party;

20 (6) the division of land for grazing or
21 farming activities; provided the land continues to be used for
22 grazing or farming activities;

23 (7) the division of land resulting only in the
24 alteration of parcel boundaries where parcels are altered for
25 the purpose of increasing or reducing the size of contiguous

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1 parcels and where the number of parcels is not increased;

2 (8) the division of land to create burial
3 plots in a cemetery;

4 (9) the division of land to create a parcel
5 that is sold or donated as a gift to an immediate family
6 member; however, this exception shall be limited to allow the
7 seller or donor to sell or give no more than one parcel per
8 tract of land per immediate family member;

9 (10) the division of land created to provide
10 security for mortgages, liens or deeds of trust; provided that
11 the division of land is not the result of a seller-financed
12 transaction;

13 (11) the sale, lease or other conveyance of
14 land that creates no parcel smaller than one hundred forty
15 acres;

16 (12) the division of land to create a parcel
17 that is donated to any trust or nonprofit corporation granted
18 an exemption from federal income tax, as described in Section
19 501 (c)(3) of the United States Internal Revenue Code of 1986,
20 as amended; school, college or other institution with a defined
21 curriculum and a student body and faculty that conducts classes
22 on a regular basis; or ~~[to any]~~ church or group organized for
23 the purpose of divine worship, religious teaching or other
24 specifically religious activity; or

25 (13) the sale, lease or other conveyance of a

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1 single parcel from a tract of land, except from a tract within
2 a previously approved subdivision, within any five-year period;
3 provided that a second or subsequent sale, lease or other
4 conveyance from the same tract of land within five years of the
5 first sale, lease or other conveyance shall be subject to the
6 provisions of the New Mexico Subdivision Act; provided further
7 that a survey shall be filed with the county clerk indicating
8 the five-year holding period for both the original tract and
9 the newly created tract;

10 [K-] M. "terrain management" means the control of
11 floods, drainage and erosion and measures required for adapting
12 proposed development to existing soil characteristics and
13 topography;

14 [L-] N. "time of purchase, lease or other
15 conveyance" means the time of signing any document obligating
16 the person signing the document to purchase, lease or otherwise
17 acquire a legal interest in land;

18 ~~[M. "common promotional plan" means any plan or~~
19 ~~scheme of operation, undertaken by a single subdivider or a~~
20 ~~group of subdividers acting in concert, to offer for sale or~~
21 ~~lease parcels of land where such land is either contiguous or~~
22 ~~part of the same area of land or is known, designated or~~
23 ~~advertised as a common unit or by a common name;~~

24 N-] O. "type-one subdivision" means any subdivision
25 containing five hundred or more parcels, any one of which is

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1 less than ten acres in size;

2 [Θ-] P. "type-two subdivision" means any
3 subdivision containing not fewer than twenty-five but not more
4 than four hundred ninety-nine parcels, any one of which is less
5 than ten acres in size;

6 [P-] Q. "type-three subdivision" means any
7 subdivision containing not more than twenty-four parcels, any
8 one of which is less than ten acres in size;

9 [Θ-] R. "type-four subdivision" means any
10 subdivision containing twenty-five or more parcels, each of
11 which is ten acres or more in size; and

12 [R-] S. "type-five subdivision" means any
13 subdivision containing not more than twenty-four parcels, each
14 of which is ten acres or more in size."

15 Section 2. A new section of the New Mexico Subdivision
16 Act is enacted to read:

17 "[NEW MATERIAL] DELEGATION OF APPROVAL--CERTAIN CLASS A
18 COUNTIES.--The board of county commissioners of a class A
19 county with a population according to the most recent federal
20 decennial census of more than three hundred thousand may by
21 rule or ordinance delegate to a specified county administrative
22 officer or to the county planning commission the authority to
23 act on all subdivision requests. Adoption of a rule or
24 ordinance by the board of county commissioners delegating the
25 authority to act on all subdivision requests is conclusive

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1 evidence of the approval of the board of county commissioners
2 for actions taken by the county administrative officer or
3 county planning commission delegated to review and take action
4 on a subdivision request."

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